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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,724	06/18/2001	Bruno Richard	B-4215 618883-0	2443

22879 7590 03/09/2007
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EXAMINER

KISS, ERIC B

ART UNIT	PAPER NUMBER
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2192

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	03/09/2007	PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

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Application Number: 09/883,724
Filing Date: June 18, 2001
Appellant(s): RICHARD ET AL.

Technology Center 2100

Robert Popa
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 22, 2006, appealing from the Office action mailed July 21, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claim 9 appears on page A-4 of the Appendix to the appellant's brief. The minor errors are as follows: The status identifier "currently amended," appears to have been inadvertently copied into the Claims Appendix. The Claims Appendix is otherwise correct.

(8) Evidence Relied Upon

6,418,554	DELO et al.	7-2002
5,742,286	KUNG et al.	4-1998
5,881,236	DICKEY	3-1999

Non-Final Rejection (10/06/2005) at pp. 2-3 (noting an unchallenged statement of official notice in the Office action mailed January 16, 2004).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(9.1) Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,418,554 (Delo et al.).

As per claim 1, *Delo et al.* discloses:

associating an executable file from a shared resource on a network with a remote client at the direction of an administrator console on the network [e.g., Delo at col. 7, lines 61-67 (the administrator uses application deployment editor 78 to select an application package 80, causing an advertise script 82 (a file) to be generated and stored for one or more groups of users or machines in a group policy template object 62 of Active Directory 66) and col. 8, lines 18-58 (executable shortcuts and shell/OLE activation information necessary to launch the application are transferred to the client as part of the advertisement operation)], the executable file being adapted for controlling a local setup procedure under the form of a low level service which is available in the operating system of the client for local background tasks and routines [e.g., Delo at col. 8, lines 18-58 (advertisement information 88 including shortcuts on the Start Menu and registry entries required for shell and OLE activation are created in

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accordance with the advertise script) and col. 11, lines 24-58 (when the user attempts to activate an advertised application, the operating system 35 communicates with the managed software installer mechanism 84b to carry out necessary local installation)] **and further being associated with a description contained within a description file present on the shared resource.** [e.g., *Delo* at col. 8, lines 18-58 (the advertisement information (executable shortcuts and shell/OLE activation information) is associated with (generated according to) advertise script file 82 (a description file)); *see also Delo* at col. 6, lines 31-55; col. 8, lines 41-59; and col. 15, lines 27-48]; and

starting said executable file so that it becomes available to said remote client as a local low level service and permits the automatic launching of a local setup procedure in accordance with the contents of said description file [*E.g., Delo* at col. 8, lines 18-58 (the managed software installer API 84b (a local low level service) is called when an application is activated (executed) to install one or more components automatically (and in a manner transparent to the user) to service the activation request); *Delo* at col. 8, lines 59-64 (advertised applications appear to be already installed); col. 9, line 62, through col. 10, line 3 (the user attempts to activate the application, and the MSI mechanism can install the application if it is not already locally installed); col. 11, lines 24-58 (in particular, lines 50-52 explain that the installation is “essentially invisible to the requesting user”); *see also Delo* at col. 8, lines 41-59; col. 15, lines 27-48; and col. 17, lines 30-33].

As per claim 2, *Delo et al.* discloses:

associating an executable file from a shared resource on a LAN with a remote PC client at the direction of an administrator console on the LAN, the executable file being adapted for controlling a local setup procedure under the control of an operating system service control manager and in accordance with a description contained within a description file present on the shared resource, said executable file receiving the format of an operating system service (see, for example, col. 6, lines 31-55; and col. 15, lines 27-48); and

starting said executable file so that it becomes available to said PC client as an operating system service and permits the launching of a local setup procedure within said PC client in accordance with the contents of said description file (see, for example, col. 15, lines 27-48; and col. 17, lines 30-33).

As per claims 3, *Delo et al.* further discloses said executable file having an entry point which is a service entry and which is further registered by said operating system service control manager with a command line option which refers to said description file (see, for example, col. 17, lines 30-33).

As per claim 4, *Delo et al.* further discloses said description file containing a list of the installation files required for a local setup procedure plus an additional line defining the command which is to be entered for executing an unattended setup procedure of said software application (see, for example, col. 17, lines 30-33; see further, the discussion of the Windows installer (MSI) APIs, beginning in col. 17, line 41).

As per claim 8, *Delo et al.* discloses:

associating an executable file from a shared resource on a network at the direction of an administrator console as an operating system service under the control of an operating system service control manager with a PC client, said executable file controlling the local setup procedure of a software application in unattended mode in accordance with a description defined by a description file present on said shared resource (see, for example, col. 6, lines 31-55; and col. 15, lines 27-48); and

starting said executable file as an operating system service for the purpose of launching the setup procedure within said PC client (see, for example, col. 15, lines 27-48; and col. 17, lines 30-33).

As per claim 9, *Delo et al.* discloses:

associating an executable file from shared resources at the direction of an administrator console, said executable file installed as an operating system service under the control of an operating system service control manager with a PC client (see, for example, col. 6, lines 31-55; and col. 15, lines 27-48); and

starting said installed service for the purpose of automatically triggering the execution of said executable file (see, for example, col. 15, lines 27-48; and col. 17, lines 30-33).

(9.2) Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view of US 5,742,286 (Kung et al.).

As per claim 5, *Delo et al.* fails to expressly disclose a GUI for providing a list of software applications and a list of clients, with a drag-and-drop mechanism for initiating a

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remote setup procedure. However, *Kung et al.* teaches such a GUI and corresponding functionality in a remote setup environment (see, for example, Figs. 2A-2J, and the associated text). Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to modify the process of *Delo et al.* to include such a GUI. One would be motivated to do so to facilitate easier management of such remote installation procedures.

(9.3) Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view of US 5,742,286 (Kung et al.) and US 5,881,236 (Dickey).

As per claim 6, *Delo et al.* fails to expressly disclose such prompting the user for context information along with password and ID verification. However, *Dickey* teaches such prompting and verification steps (see, for example, Figs. 3-8, and the associated text). Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to further modify the process of *Delo et al.* to include such prompting and verification. One would be motivated to do so to provide additional security in remote installation.

(9.4) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view of admitted prior art.

As per claim 7, although *Delo et al.* fails to expressly disclose such use of a wake-on-LAN function, such functionality is admitted prior art. Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to modify the

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process of *Delo et al.* to include such a wake-on-LAN function as an advantageous known means of modifying a client PC.

(10) Response to Argument

(10.1) “Issue 1” (Appeal Brief at pp. 4-7.)

Claim 1

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993); see also *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) (“[T]he name of the game is the claim.”).

Appellant argues that the claimed invention, “employs a low level service that resides on a remote server, not on the computer, and which executes locally on the user’s computer . . . and thereby allows the service to execute on the local PC as a local, low level service **without actually being stored/residing on the local PC.**” (Appeal Brief at p. 4 (underlining in original; boldface added for further emphasis).) The examiner maintains that this is not what claim 1 recites. Specifically, claim 1 recites that the “low level service” is “available in the operating system of the client” and not necessarily stored on the server as appellant contends. (Claim 1.) Similarly, the availability of the low level service on the client, (*Id.*) does not suggest that this service is in any way required to be downloaded from the server because the executable file is merely recited as being “adapted for controlling” the local setup procedure/low level service. Rather than requiring the low level service to reside on the server as appellant contends, claim 1 only requires that the “executable file” and “description file” be *from* the shared resource, and

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the executable file being “associate[ed]” with the client. (*Id.*) The plain language of claim 1 does not even require that the executable file stay on the shared resource or be executed on the shared resource, only that it, again, is “associated from” the shared resource and “adapted for controlling” the local setup procedure. (*Id.*) The language of claim 1 does not preclude local execution of a file to control a local low level service for controlling the local setup procedure. (*Id.*)

Appellant further argues that, “Delo does not permit the automatic launching of a local setup procedure . . . because the user of Delo must first launch the Windows Installer by double clicking an icon or such.” (Appeal Brief at pp. 4-5.) The examiner disagrees. What the user of the Delo system is actually doing by double clicking an icon is attempting to launch an advertised application that appears to the user to be already installed on their machine, and if the application is not, in fact, installed on the machine, then a local setup procedure is automatically launched. *E.g.*, *Delo* at col. 8, lines 59-64 (advertised applications appear to be already installed); col. 9, line 62, through col. 10, line 3 (the user attempts to activate the application, and the MSI mechanism can install the application if it is not already locally installed); col. 11, lines 24-58 (in particular, lines 50-52 explain that the installation is “essentially invisible to the requesting user”).

The plain language of claim 1 is anticipated by *Delo*:

Associating an executable file from a shared resource on a network with the remote client at the direction of an administrator console on the network. *E.g.*, *Delo* at col. 7, lines 61-67 (the administrator uses application deployment editor 78 to select an

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application package 80, causing an advertise script 82 (a file) to be generated and stored for one or more groups of users or machines in a group policy template object 62 of Active Directory 66) and col. 8, lines 18-58 (executable shortcuts and shell/OLE activation information necessary to launch the application are transferred to the client as part of the advertisement operation).

The executed file being adapted for controlling a local setup procedure under the form of a low level service which is available in the operating system of the client for local background tasks and routines. *E.g., Delo* at col. 8, lines 18-58 (advertisement information 88 including shortcuts on the Start Menu and registry entries required for shell and OLE activation are created in accordance with the advertise script) and col. 11, lines 24-58 (when the user attempts to activate an advertised application, the operating system 35 communicates with the managed software installer mechanism 84b to carry out necessary local installation).

The executable file further being associated with a description contained within a description file present on the shared resource. *E.g., Delo* at col. 8, lines 18-58 (the advertisement information (executable shortcuts and shell/OLE activation information) is associated with (generated according to) advertise script file 82 (a description file)).

Starting said executable file so that it becomes available to said remote client as a local low level service and permits the automatic launching of a local setup procedure in accordance with the contents of said description file. *E.g., Delo* at col. 8, lines 18-58 (the managed software installer API 84b (a local low level service) is called when an

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application is activated (executed) to install one or more components automatically (and in a manner transparent to the user) to service the activation request).

Claims 2, 8, and 9

Appellant merely argues that claims 2, 8, and 9 follow the “same basic approach” of claim 1. (Appeal Brief at p. 6, last paragraph.) For at least the reasons set forth above with regard to claim 1, the examiner respectfully submits that the rejection of claims 2, 8, and 9 should be affirmed.

Claims 3 and 4

Appellant merely argues that claims 3 and 4 depend from claim 2. (Appeal Brief at p. 7, first paragraph.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claims 3 and 4 should be affirmed.

(10.2) “Issue 2” (Appeal Brief at p. 7.)

Claim 5

Appellant merely argues that claim 5 depends from claim 2. (Appeal Brief at p. 7.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claim 5 should be affirmed.

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(10.3) "Issue 3" (Appeal Brief at p. 7.)

Claim 6

Appellant merely argues that claim 6 depends from claim 2. (Appeal Brief at p. 7.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claim 6 should be affirmed.

(10.2) "Issue 4" (Appeal Brief at pp. 7-8.)

Claim 7

Appellant merely argues that claim 7 depends from claim 2. (Appeal Brief at p. 8.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claim 7 should be affirmed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

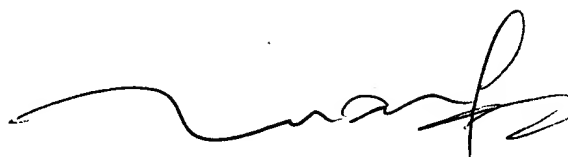
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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Eric B. Kiss *EBK*

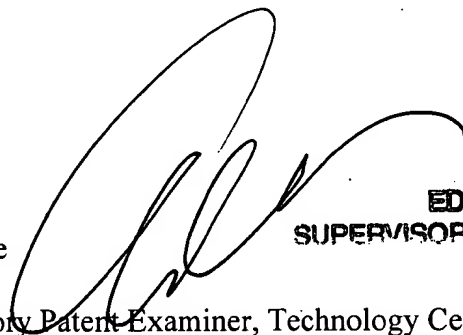
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